REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 7, 2007. At the time of the *Office Action*, Claims 26-30 and 32-47 were pending, of which, the Examiner rejected Claims 26-30 and 32-47. Applicant has added new Claims 48 and 49. Applicant respectfully requests reconsideration and favorable action in this case.

Claim Rejections under 35 U.S.C. § 112

The Examiner rejects Claims 26-30 and 32-47 under 35 U.S.C. § 112, second paragraph, as being indefinite for filing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states, "In claims 26 and 44, Applicant claims '. . relative position . .'. The term relative in claims is a relative term which renders the claims indefinite." *See Office Action*, page 2. Applicant respectfully traverses these rejections.

The *Office Action* suggests the mere presence of the term "relative" in a claim renders the claim indefinite. This position is untenable. To illustrate this point, Applicant conducted an informal search on the United States Patent and Trademark Office's (PTO's) website for all issued patents that contain the word "relative" in the claims. In response, the PTO's website returned over a half of a million issued patents containing the term "relative" in at least one claim - the most recent of which was issued today (08/07/07). Accordingly, Applicant must disagree with the Examiner's assertion that "[t]he term relative in claims is a relative term which renders the claims indefinite."

The *Office Action* also suggests that the term "relative" as used in Claims 26 and 44 is "Relative Terminology" under the M.P.E.P. §2173.05(b). Applicant respectfully disagrees. For example, the **Relative Terminology** section of the M.P.E.P. states, "[w]hen a term of degree is presented in a claim, first a determination is to be made as to whether the specification provides some standard for measuring that degree." *Id.* However, the term "relative" as used in Claims 26 and 44 is not used as a term of degree. Specifically, Claim 26 recites (and claim 44 includes limitations generally directed to), "attenuating the received real-time audio data and stored audio data . . . **to simulate relative positions** of the source audio client, the point source, and a target audio client . . . ." By contrast, as illustrated by the M.P.E.P., examples of relative terminology include, "relatively shallow," "essentially free of," "substantially equal." See M.P.E.P. §2173.05(b)(A-F). Clearly, the use of the term "relative" is Claims 26 and 44 is not relative terminology.

Furthermore, according to the M.P.E.P., "[a]cceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification." See §2173.05(b). Applicant respectfully contends that in light of the specification and the figures, the description contained in the Application would make it clear to one of ordinary skill in the art what is claimed by "attenuating the received real-time audio data and stored audio data . . . to simulate relative positions of the source audio client, the point source, and a target audio client." Accordingly, Applicant respectfully requests that the Examiner withdraw the objections of Claims 26 and 44 under 35 U.S.C. §112.

Claim Rejections under 35 U.S.C. § 103

The Examiner rejects Claims 26-30, 32-37, 39-42, 44-47 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Pat. No. 5,710,591 to Bruno et al. ("*Bruno*"), in view of Cohen et al., IEEE 1993, "Virtual Gain for Audio Windows" ("*Cohen*"). Applicant respectfully traverses these rejections.

Claim 26 is directed to an audio conferencing method that includes receiving real-time audio data from a source audio client. The received real-time audio data and stored audio data associated with a point source are attenuated based on audio decay characteristics to simulate relative positions of the source audio client, the point source, and a target audio client. Furthermore, each source audio client and each point source is assigned a respective selected decay function from a plurality of predefined decay functions. In further accordance with the method, the attenuated audio data is delivered to the target audio client. Similar to Claim 26, Claim 44 includes limitations generally directed to assigning each source audio client and each point source a respective selected decay function from a plurality of predefined decay functions. Neither *Bruno* nor *Cohen*, alone or in combination disclose, teach, or suggest each of these limitations.

For example, Claims 26 and 44 recite, "each point source is assigned a respective selected decay function from a plurality of predefined decay functions." The Examiner generally contends that a proposed combination of *Cohen* and *Bruno* anticipates Claims 26 and 44; however, the Examiner fails to address the above-mentioned limitations. In fact, both the Examiner and the cited references are silent with respect to assigning "a respective selected decay function" to "each point source" as required by Claims 26 and 44. Accordingly, since the M.P.E.P. requires that "the prior art reference (or references when

combined) must teach or suggest **all** the claim limitations" in order to establish a *Prima Facie* case of obviousness; *see* §2143 (emphasis added), Applicant respectfully contends that Claims 26 and 44, and all claims depending from Claims 26 and 44 are in condition for allowance.

Claim 48 is directed to an audio conferencing method that includes calculating a weighted value for each source audio client and each point source. The weighted values are based upon the particular decay functions respectively associated with each source audio client and each point source, and each weighted value corresponds to a particular percentage of a maximum volume at which the attenuated audio data may be delivered to the target audio client. Additionally, if the weighted value respectively associated a particular source audio client or particular point source exceeds a predetermined value, then the portion of the attenuated audio data respectively associated with the particular source audio client or a particular point source is delivered to the target audio client. Neither *Bruno* nor *Cohen* alone or in combination teach these limitations.

For example, Claim 48 recites, "delivering the portion of the attenuated audio data respectively associated with a particular source audio client or a particular point source only if the weighted value respectively associated the particular source audio client or particular point source exceeds a predetermined value." Nowhere does *Bruno* or *Cohen* recite these limitations. Accordingly, Applicant contends that Claim 48 and all of its dependent claims are in condition for allowance.

Moreover, Applicant contends that the deficiencies of *Bruno* and *Cohen* are not accounted for in either U.S. Pat. No. 5,452,447 to Nelson et al. ("*Nelson*") or in U.S. Pat. No. 5,864,816 to Everett ("*Everett*"). Thus, Applicant respectfully contends that all claims are in condition for allowance.

Conclusion

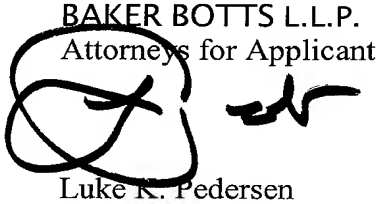
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicant respectfully requests full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

Applicant believes no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. **02-0384** of **Baker Botts L.L.P.**

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Luke K. Pedersen
Reg. No. 45,003
PHONE: (214) 953-6655

Date: August 7, 2007

CORRESPONDENCE ADDRESS:

Customer Number: **05073**